



Memorandum

TO: PLANNING COMMISSION

FROM: Christopher Burton

SUBJECT: SP20-012, T20-012 & ER20-082

DATE: July 13, 2022

COUNCIL DISTRICT: 10

Type of Permit	Special Use Permit and Vesting Tentative Map
Demolition	Surface parking
Proposed Land Uses	Mixed use project including the construction of one six-story mixed use building with 13,590 square feet of commercial space and 239 market-rate multifamily residential units and one five-story multifamily residential building with 89 affordable housing units, with improvements to the Canoas Creek trail
New Residential Units	328 units, including 89 affordable units
New Non-Residential Square Footage	13,590 square feet
Additional Policy Review Items	Riparian Corridor
Tree Removals	55 ordinance-size trees and 14 non-ordinance trees
Project Planner	Laura Meiners
CEQA Clearance	Environmental Impact Report (EIR) for the Blossom Hill Station Project (SCH #2020100005)
CEQA Planner	Reema Mahamood

RECOMMENDATION

Staff recommends that the Planning Commission recommend the City Council take all of the following actions regarding the project site located north of Blossom Hill Road, approximately 300 feet easterly of Chesbro Avenue (605 Blossom Hill Road) ("Project Site"):

1. Adopt a Resolution certifying the Blossom Hill Station Project Environmental Impact Report (EIR) and make certain findings concerning significant impacts, mitigation measures and alternatives, and adopting a statement of overriding considerations and a mitigation monitoring and reporting program, all in accordance with the California Environmental Quality Act, as amended (CEQA).
2. Adopt a Resolution approving, subject to conditions, a Vesting Tentative Map to merge the existing two lots on the approximately 7.42-gross acre Project Site to one lot and subdivide into five lots.
3. Adopt a Resolution approving, subject to conditions, a Special Use Permit to allow the demolition of existing surface parking, the removal of 55 ordinance-size trees and 14 non-ordinance trees, and

the construction of one six-story mixed use building with 13,590 square feet of commercial space and 239 market-rate multi-family residential units and one five-story multifamily residential building with 89 affordable housing units, with improvements to the Canoas Creek trail, on a 5.39-gross acre portion of the Project Site. Includes extended construction hours to include Saturdays from 8:00 a.m. to 5:00 p.m.

PROPERTY INFORMATION

Location	North of Blossom Hill Road, approximately 300 feet easterly of Chesbro Avenue (605 Blossom Hill Road)
Assessor Lot No.	464-22-032
General Plan	Neighborhood / Community Commercial
Growth Area	Blossom Hill Road/Cahalan Avenue Urban Village Plan
Zoning	A Agriculture (CP Commercial Pedestrian District applied per AB 3194)
Historic Resource	N/A
Annexation Date	January 12, 1981 (Snell No. 23)
Council District	10
Acreage	7.42-gross acres
Proposed Floor Area Ratio (FAR)	1.57

PROJECT BACKGROUND

As shown on the attached [Vicinity Map \(Exhibit A\)](#), the Project Site is located north of Blossom Hill Road, approximately 300 feet easterly of Chesbro Avenue (605 Blossom Hill Road). The approximately 7.42-gross acre site is currently developed with a 542-space surface parking lot for the adjacent Santa Clara Valley Transportation Authority (VTA) Blossom Hill light rail station, VTA bus stop, landscaping and ornamental trees. Vehicular access to the site is provided via a driveway located near the middle of the site along Blossom Hill Road.

The project site is bordered by State Route 85 (SR 85) to the north and the Blossom Hill Road exit ramp to the east. The Blossom Hill VTA Station is also located to the north of the site, and the VTA light rail runs down the center of SR 85 with access to the Blossom Hill Station provided at the project site. Located south of the project site is Blossom Hill Road, a six-lane street divided by a median. Directly across Blossom Hill Road from the project site are medical office uses. To the west is the Canoas Creek riparian area, and on the other side of the creek are one- and two-story single-family residences and a small retail commercial building facing Blossom Hill Road.

On April 15, 2020, a Special Use Permit, File No. SP20-012, and Vesting Tentative Map, File No. T20-012, were filed by the applicant, Melissa Durkin of Green Republic Blossom Hill LLC, on behalf of owner Santa Clara Valley Transportation Authority, with the City of San José. The Special Use Permit is to allow the development of 5.39 acres within the southern and eastern portions of the site with a Signature Project per Policy IP-5.10 of the San José General Plan, including the demolition of existing surface parking, the removal of 55 ordinance-size trees and 14 non-ordinance trees, and the construction of one six-story mixed use building with 13,590 square feet of commercial space and 239

market-rate multi-family residential units and one five-story multifamily residential building with 89 affordable housing units. Of the 89 units restricted for affordable housing (27%), 58 units (18%) are reserved for Extremely Low-Income households, 6 units (2%) are reserved for Very Low-Income households, and 23 units (7%) are reserved for Low-Income households, as defined in California Code Section 65915. The project also includes improvements to the Canoas Creek trail, directly adjacent to the west of the project site, and extended construction hours to include Saturdays from 8:00 a.m. to 5:00 p.m.

Due to the location of the trail improvements on land owned by other agencies, permitting and approval for this project component would be required from VTA, Caltrans, Valley Water, and the County of Santa Clara. These improvements include upgrading an existing Valley Water gravel access road along Canoas Creek to an approximately 0.6-mile, 10- to 12-foot-wide paved asphalt concrete pedestrian/bicycle trail between Blossom Hill Road and Martial Cottle Park. The permittee will be required to record an easement benefitting the City of San José as grantee under the easement for maintenance and access over the trail area.

The remaining 2.03 acres in the northern half of the project site is not part of the subject project. This area will be retained by VTA and reconfigured into a new 212-space parking lot to allow for better circulation and redevelopment of the existing transit plaza adjacent to the Blossom Hill light rail station entrance.

The project is associated with a Vesting Tentative Map to merge the existing two lots on the 7.42-gross acre Project Site to one lot and subdivide into five lots. Lot 1 is the area that will be retained and reconfigured for VTA parking. After the subdivision, Lot 2 is the area reserved for the Canoas Creek trail, Lot 3 is the area for the multifamily affordable housing building, Lot 4 is the area for the mixed-use market-rate housing with ground-floor commercial, and Lot 5 is the area for the Transit Plaza, a privately owned and maintained public open space.

SURROUNDING USES			
	General Plan	Zoning District	Existing Use
North	N/A	N/A	State Route 85
South	Neighborhood/Community Commercial	CO Commercial Office	Medical offices
East	N/A	N/A	State Route 85 Exit Ramp
West	Open Space, Parklands and Habitat	R-1-8 Single-Family Residence	Canoas Creek, single-family residential and retail commercial beyond

ANALYSIS

The proposed **Special Use Permit and Vesting Tentative Map** have been analyzed with respect to consistency with:

1. Envision San José 2040 General Plan
2. Municipal Code – Zoning Ordinance
3. Residential Design Guidelines
4. State Density Bonus Law Consistency (Government Code Section 65915)
5. Permit Findings
6. City Council Policies
7. California Environmental Quality Act (CEQA)

Envision San José 2040 General Plan Consistency

As shown in the attached **General Plan Map (Figure 2)**, the subject site has an Envision San José 2040 General Plan designation of **Neighborhood/Community Commercial**. This designation supports a very broad range of commercial activity that have strong connections to and provide services and amenities for the nearby community. This designation supports development projects up to 3.5 floor-area ratio (FAR). The project is also within the Blossom Hill Road/Cahalan Avenue Urban Village area, which does not yet have an adopted Urban Village Plan. At the moment, there is no identified timeline for the drafting and adoption of an Urban Village Plan for the area.

Analysis: The project includes a gross square footage of 508,539, which results in a 1.57 FAR, consistent with the FAR requirement. Residential and mixed-use projects are not permitted within the Neighborhood/Community Commercial land use designation unless the project meets Policy IP-5.10 for Signature Projects. The project is analyzed for consistency with the Signature Project Policy below.

Policy IP-5.10 Signature Project Analysis

The Signature Project policy allows residential and mixed-use projects to proceed ahead of an Urban Village Plan adoption if the project meets certain requirements related to residential density, project design, and the provision of employment space, parks and/or public and privately accessible open space on site. These requirements were updated in December 2021 to include additional requirement, but since the project submitted a complete Planning application prior to the adoption of the updated policy, the previous requirements apply, as follows:

1. Incorporates job growth capacity above the average density of jobs per acre planned for the developable portions of the entire Village Planning area and, for portions of a Signature Project that include housing, those portions incorporate housing density at or above the average density of dwelling units per acre planned for the entire Village Planning area.

Analysis: Per the General Plan Land Use Policy Chapter, within Growth Areas, new residential development is planned to occur at a density of at least 55 dwelling units per acre (DU/AC), which is the number where the City can provide services to new residential development without incurring additional costs for providing the new services. The project meets this criterion with 80.7 DU/AC for the mixed-use building and 90.8 DU/AC for the affordable multifamily residential building.

Based on the project site area, the development must provide at least 22,596 square feet of commercial area per this requirement. This is calculated using a rough estimate of 300 square feet per one job, which would result the creation of approximately 75 jobs. The project, with 13,590 square feet of commercial space, would create approximately 45 jobs and does not meet this criterion. However, the project applicant has requested a Density Bonus Incentive to reduce the required commercial square footage. The project has been deemed eligible for Density Bonus under State Law (Government Code Section 65915). Therefore, the reduced commercial space is allowed as an incentive as described in the Density Bonus Section below.

2. Includes public parklands and/or privately maintained, publicly-accessible plazas or open space areas.

Analysis: The Canoas Creek Trail improvements and on-site plaza and public open space areas include approximately 2.23 acres of public open space amenities and are consistent with this policy requirement, as follows:

- a. *Canoas Creek Trail Improvements: As previously described, as part of the proposed project, the existing eight-foot wide Valley Water gravel access road along Canoas Creek would be improved and extended to an approximately 0.6-mile, 10- to 12-foot-wide paved asphalt concrete pedestrian/bicycle trail between Blossom Hill Road and Martial Cottle Park. The trail would be located on the east side of Canoas Creek and would follow the natural slope of the land. Additionally, two trailhead plazas would be constructed on-site to mark the entrance of the trail at Blossom Hill Road and another in the northwest corner of the project site marking the direction to the Blossom Hill light rail station. The on-site trail improvements would cover approximately 28,000 square feet.*
 - b. *On-Site Public Plaza and Open Space Areas: In addition to the Canoas Creek trail improvements, the project's outdoor public amenities include an 18,000 square foot transit plaza located at the entrance to the transit station, a 5,900 square foot public open space area, and a 22,800 square foot public path, as shown on Sheet L300 of the project plans. These open space and trail areas will be privately owned public amenity areas. With the exception of the Canoas Creek trail improvements, which will be maintained by the City of San José, all other open space areas will be privately maintained.*
3. Achieves the pedestrian-friendly design guideline objectives identified within this General Plan.

Analysis: The project is consistent with the following General Plan Community Design objectives relating to pedestrian orientation:

- a. Policy CD-1.7: Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.

Per the project Landscape Plans, pedestrian areas will include shade trees, site wayfinding directional signs, sculptural seat walls, natural seating elements, architectural site lighting, specialty paving, interactive sculptural elements, and site furniture. The project will also install sidewalk seating along Blossom Hill Road in front of the ground floor commercial use. The project is consistent with this finding.

- b. Policy CD-1.11: To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid blank walls that do not enhance the pedestrian experience. Encourage inviting, transparent façades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.

Mixed-Use Building – The building façade along Blossom Hill Road include windows and pedestrian entries facing the sidewalk, with active building ground floor uses facing the street. The frontage along the driveway includes awnings, windows, and pedestrian entrances facing the sidewalk. The façade materials are varied and include a combination of stone and smooth painted stucco, along with decorative metal garage screens with landscaped trellises.

Multifamily Residential Building – The building façade along Blossom Hill Road is similarly varied with stone, smooth painted stucco, and decorative mosaic tile materials. Windows, awnings, and pedestrian entrances face the street. The building includes active ground floor uses. The main pedestrian entry is arched for an inviting, architecturally pleasing pedestrian experience.

- c. Policy CD-1.24: Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

All parts of the development are connected to each other with sidewalks, including the paseo, the creek improvements, the station entrance, and both buildings. The project also provides wayfinding signage for easy accessibility to all the components of the project. The sidewalks are lined with trees, seating, and lighting to provide safe, convenient, and accessible connections.

- d. Policy CD-2.3: Create easily identifiable and accessible building entrances located on street frontages or paseos.

The main pedestrian entrances along the driveway at both buildings are prominent and identifiable to pedestrians, cyclists and motorists. As described above, the main pedestrian entrance of the mixed-use building is identified by a large awning on the corner of Blossom Hill Road and the project access driveway, and the main pedestrian entrance of the multifamily residential building is identified by arched architectural features and a setback doorway for depth.

4. Is planned and designed through a process that provided a substantive opportunity for input by interested community members.

Analysis: The City held a virtual Joint Environmental Scoping and Community Meeting on October 13, 2020. There were approximately 24 members of the public in attendance at the meeting. See the City Council Policy Consistency section below for additional information about issues discussed. In addition, there were multiple VTA Access Study outreach meetings with the community, including the following:

Community Meeting – Visioning: January 24, 2018

VTA Board Public Hearing: March 1, 2018

Community Meeting – Project Schedule: October 25, 2018

VTA Board Public Hearing – Program Approval: March 7, 2019

Community Meeting – Meet the Developer: May 15, 2019

Community Meeting – Update: September 9, 2020

VTA’s website includes project details and topics of discussion during each of the community meetings. The information can be found on VTA’s website here:

<https://www.vta.org/projects/blossom-hill-station-transit-oriented-development>. The project is consistent with this requirement.

5. Demonstrates high-quality architectural, landscape and site design features.

Analysis: The City’s Planning Division urban design review staff reviewed and made specific recommendations regarding the architecture, landscaping, and site design features. These recommendations are discussed below. In addition, the project includes stucco and cast trim materials, which are not considered high-quality materials; however, they are standard quality, durable materials commonly used in new residential building exterior construction. The project is requesting the use of these materials as affordable alternatives under a Density Bonus Incentive Request. The project has been deemed eligible for Density Bonus under State Law (Government Code Section 65915). Therefore, the more affordable material alternatives are allowed as an incentive as described in the Density Bonus Section below.

6. Is consistent with the recommendations of the City’s Architectural Review Committee or equivalent recommending body if the project is subject to review by such body.

Analysis: Planning Division urban design staff reviewed the project and provided several design recommendations addressing materials, façade details, and site design features. In response, the project design was revised to include stone and limestone panels on the ground floor and smooth textured stucco on the upper floors, awnings in front of functional doors and louvers in front of windows, consistent and complimentary earth-tone colors, the incorporation of additional Mediterranean Traditional design elements, recessed windows to add visual interest and additional light and shadow, equally high-quality façade materials on the affordable building as the mixed-use building, and traditional Mediterranean-style sloped tile roofs.

To address specific site design features, the project was revised to remove a surface parking lot behind the affordable building, increase the depth of the commercial space in the mixed-use building, provide more prominent and identifiable pedestrian entries, provide additional open space along the creek, and the open space in front of the station entrance was redesigned to be contiguous.

Based on the above, the project is therefore consistent with Signature Project Policy IP-5.10.

In addition to the requirements of the Signature Project Policy IP-5.10, the project is also consistent with the following key General Plan policies:

1. **Major Strategy #3 - Focused Growth:** The Focused Growth Major Strategy plans for new residential and commercial growth capacity in specifically identified “Growth Areas” (Urban Villages, Specific Plan areas, Employment Areas, Downtown) while the majority of the City is not planned for additional

growth or intensification. The strategy focuses new growth into areas of San José that will enable the achievement of economic growth, fiscal sustainability, and environmental stewardship goals, while supporting the development of new, attractive urban neighborhoods.

2. Growth Area Policy LU-2.1: Provide significant job and housing growth capacity within strategically identified “Growth Areas” in order to maximize use of existing or planned infrastructure (including fixed transit facilities), minimize the environmental impacts of new development, provide for more efficient delivery of City services, and foster the development of more vibrant, walkable urban settings.
3. Commercial Lands Policy LU-4.3: Concentrate new commercial development in identified growth areas and other sites designated for commercial uses on the Land Use/Transportation Diagram. Allow new and expansion of existing commercial development within established neighborhoods when such development is appropriately located and designed.
4. Public Transit Goal TR-3: Maximize use of existing and future public transportation services to increase ridership and decrease the use of private automobiles.
5. Maximize Use of Public Transit Policy TR-3.4: Maintain and improve access to transit stops and stations for mobility-challenged population groups such as youth, the disabled, and seniors.

Analysis for Major Strategy 3, Policy LU-2.1, Policy LU-4.3, Goal TR-3, and Policy TR-3.4: The project is within the Blossom Hill Road/Cahalan Avenue Urban Village area and is sited immediately adjacent to the Blossom Hill VTA light rail station. The project would provide a high intensity transit-oriented development on the subject site consistent with General Plan major strategy, and policies supporting focused growth and development near transit. High intensity development near transit maximizes land near transit and encourages the use of public transit while reducing vehicle miles traveled.

Zoning Ordinance Consistency

The subject site is currently located in the A Agriculture Zoning District. However, California Assembly Bill 3194 (AB 3194) stipulates that a housing project located on a site that is consistent with the policies and objectives of the General Plan cannot be required to rezone, even if the existing zoning of the site is not consistent with the General Plan. Instead, the local agency shall evaluate the project and apply the zoning district that is consistent with the General Plan land use designation of the site. The CP Commercial Pedestrian District, which is the zone most in conformance with the General Plan designation is applied, which allows mixed residential/commercial development, for which consistency is analyzed below:

Land Uses

Pursuant to the Zoning Code Section 20.120.110, the CP Commercial Pedestrian Zoning District is a conforming zoning district to the Neighborhood/Community Commercial General Plan land use designation. The purpose of the CP Zoning District is to support pedestrian-oriented retail activity at a scale compatible with surrounding residential neighborhoods. Per Table 20-90 of the Zoning Code, mixed-use residential/commercial uses are allowed in the CP Zoning District within an Urban Village Plan Area with the approval of a Special Use Permit.

Analysis: In the CP Commercial Pedestrian Zoning District within an Urban Village Plan Area, mixed-use residential/commercial projects are permitted with a Special Use Permit.

Development Regulations

The project conforms to the CP Commercial Pedestrian Zoning District development standards, beginning with Zoning Section 20.40.200, as discussed below.

1. Setbacks: The following table illustrates the setbacks in the CP Zoning District found in Table 20-100.

CP Zoning District Requirement		Proposed (Building A)	Proposed (Building B)
Front	No minimum, 10 feet maximum	4 feet	9.2 feet
Side	None	26 feet	15 feet
Rear	25 feet minimum	27 feet	26 feet

Analysis: The project is consistent with the setback requirements.

2. Height: The maximum height of new construction is 120 feet within Urban Village Plan boundaries per Section 20.85.020.E of the Zoning Code.

Analysis: The mixed-use building has a maximum of height of 75.5 feet and the affordable multifamily residential building has a maximum height of 61 feet, which is within the allowed height limit. The project is therefore consistent with the height requirements.

3. Vehicle Parking: The required number of vehicle parking spaces for the ground-floor commercial use within the mixed-use building is one space per 400 square feet of net floor area (85 percent of gross square feet) per Section 20.90.220.C of the Zoning Code. Based on the gross commercial floor area of 13,590 square feet, the net floor area is 11,552 square feet, and the required parking for the commercial area is 29 spaces.

The number of vehicle parking spaces required for the residential portion of the mixed-use building and the affordable multifamily residential building is per the State Density Bonus Law. Per Section 65915(p) of the California Government Code, rental projects that are at least 11% affordable to very-low income within 1/2 mile of an accessible major transit stop have a vehicular parking space requirement of 0.5 space per unit. There are 239 units included in the mixed-use building and 89 units in the affordable multifamily residential building, which is a total of 328 units and results in a total parking requirement of 164 spaces.

Analysis: The project is required to provide a total of 29 spaces for commercial use and 164 spaces for residential use. The project includes 34 parking spaces for the commercial use and 364 spaces for the residential use. The project is consistent with the parking requirement in that it exceeds the parking requirements by 205 parking spaces.

4. Bicycle Parking: The project is required to provide one bicycle space per 3,000 square feet of net commercial floor area and one space per four units of residential use. This results in four commercial bicycle spaces, 60 bicycle spaces for the mixed-use building, and 23 bicycle spaces for the affordable multifamily residential units required for the project.

For commercial spaces, at least eighty percent of the bicycle parking spaces shall be provided in short-term bicycle parking facilities and at most twenty percent shall be provided in long-term bicycle facilities. For residential units, bicycle parking spaces shall consist of at least sixty percent long-term and at most forty percent short-term spaces. This calculates to three long-term spaces and one short-term space for the commercial use and 50 long-term spaces and 33 short-term spaces for the residential use for a total of 51 long-term spaces and 36 short-term spaces required.

Analysis: The project includes 232 long-term bicycle parking spaces within a secure bicycle storage room on the ground floor of the mixed-use building, and 75 short-term bicycle parking spaces provided on racks. The project is therefore consistent with the requirement.

5. **Loading Spaces:** This project requires one loading space per Section 20.90.410 of the Zoning Code. The loading space must be ten feet wide, thirty feet long and fifteen feet high, exclusive of driveways for ingress and egress and maneuvering areas per Section 20.90.420.

Analysis: The project includes one loading space in front of the mixed-use building along the driveway. The loading space is 40 feet long by 12 feet wide and is at the curb with no structure above it. This meets the requirement for the loading space.

San José Residential Guidelines Consistency

The project was analyzed for consistency with applicable Residential Design Guidelines (1999). Per Senate Bill 330, effective January 1, 2020, only objective standards and guidelines can be applied to certain affordable housing projects. Objective standards per SB 330 must be measurable and quantifiable.

The updated Citywide Guidelines were adopted on February 23, 2021 and effective March 25, 2021. These updated guidelines include objective standards in response to the requirements of SB 330. The subject project, submitted on April 15, 2020, was submitted prior to the effective date of the new guidelines and therefore subject to the 1999 Residential Design Guidelines.

The project complies with the following key guidelines from the 1999 Residential Design Guidelines below:

Chapter 10.A. Private and Common Open Space. A minimum of 100 square feet of Common Open Space and 60 square feet of Private Open Space, with a minimum 6 feet of width, is required per each unit.

Analysis: Under this section, the project would be required to provide 32,800 square feet of common open space and 19,680 square feet of private open space. The project includes 26,905 square feet of common open space on the mixed-use lot and 19,376 square feet on the affordable multifamily residential lot, resulting in a total of 46,281 square feet of common open space for the project. This is consistent with the requirements.

A Density Bonus Incentive request was received to reduce the private open space requirement from 19,680 square feet to 11,693 square feet. The project has been deemed eligible for Density Bonus under State Law (Government Code Section 65915). Therefore, the reduced private open space request is allowed as an incentive as described in the Density Bonus Section below.

Chapter 11.A Façade Articulation. All building facades containing 3 or more attached dwellings in a row should incorporate at least one of the following:

1. At least one architectural projection per unit. Such a projection must project no less than 2 feet 6 inches from the major wall plane, must be between 4 feet 6 inches and 15 feet wide, or
2. A change in wall plane of at least 3 feet for at least 12 feet or every 2 units.

Analysis: The windows, window treatments, and architectural projections provided with the project design is consistent with the façade articulation guidelines. There is at least one projection, change in wall plane, or architectural feature that meets this guideline on all facades of the project, as illustrated in the project rendering below.



Figure 1 – Project Rendering

Chapter 11.E. Changes in Materials. The exterior materials and architectural details of a single building should relate to each other in ways that are traditional and/or logical. Material changes not accompanied by changes in plane also frequently give material an insubstantial or applied. There are, however, exceptions to this principle such as the articulation of the base of a building by a change in color, texture or material.

Analysis: As shown in the development plans, the project includes multiple changes in plane, materials, and color throughout all facades of the project. The project incorporates materials and colors that relate to each other between the two buildings. Some changes to materials and textures are intended as focal points, including the large mural on the east side of the mixed-use building on the corner of Blossom Hill Road and the Caltrans off-ramp. The project is consistent with this guideline.

State Density Bonus Law Consistency (Government Code Section 65915)

In order to qualify for the provisions of the State Density Bonus Law, a project must include at least 5% of the housing units as restricted for very-low income households or at least 10% of the units restricted for low-income or moderate-income households, as defined in California Code Section 65915. The project includes 89 of the total 328 units restricted for affordable housing (27%), including 58 units (18%) for Extremely Low-Income households, 6 units (2%) for Very Low-Income households, and 23 units (7%) for Low-Income households. The project is therefore eligible for the provisions of the density bonus, waivers, and incentives/concessions under the State Density Bonus Law.

Density Bonus: There is no maximum density limit in the General Plan designation. However, the project is eligible for incentives and waivers by including the required percentages of affordable units. The project does not include a request for an increase in density, but only needs to be eligible for a density bonus in order to pursue incentives and concessions, such as reductions in development standards to facilitate the economically viable construction of affordable housing.

Incentives: Projects that are eligible for a density bonus are also eligible to pursue incentives and concessions, such as reductions in development standards to facilitate the economically viable construction of affordable housing. Because the project is providing over 15% of the total units as extremely low-income and very low-income, the project qualifies for three incentives per Section d.2.c of Government Code Section 65915.

The project has therefore requested three incentives, as follows:

Incentive 1: Private Open Space.

The development standard pursuant to the Residential Design Guidelines, Chapter 10.A, requires a minimum of 60 square feet of private open space per unit, for a total of 19,680 square feet of private open space. The applicant has requested that the development standard be decreased to allow Building A to have 154 units with private open space for a total of approximately 11,693 square feet and allow for Building B to have no private open space.

More than 60% of the Affordable Housing units will be made available to households earning extremely low-incomes, half of which are to be set aside for tenants qualifying under Permanent Supportive Housing guidelines. Best practice within affordable and mixed-income communities is to encourage social integration and to discourage isolation. Common area open space is therefore encouraged, while conversely private patios/balconies are discouraged. The project incorporates significant common area open space amenities and features, as described in the General Plan Consistency section above

As described in the Density Bonus Request letter from the applicant dated November 19, 2021, the requested concession would reduce the average cost per unit from \$654,370 to \$636,941, resulting in a total reduction of \$17,429 per unit. Without the requested concession, the project is not viable and cannot be constructed.

As a result of the decreased costs, the project would be viable and can be constructed. Cost savings will go toward the affordability of the units. Therefore, the incentive request to decrease the required private open space from 19,680 square feet to 11,693 square feet results in actual and identifiable cost reductions and can be granted.

Incentive 2: Commercial Square Footage.

The development standard pursuant to General Plan Signature Project Policy IP-5.10, requirement #1, requires a total of 22,595 square feet of commercial area to be provided with the project. The applicant has requested that the development standard be reduced to 13,590 square feet of commercial space.

This incentive supports the economic viability of the Affordable Housing building and allows for an efficient mix of ground-floor common-area and supportive services.

As described in the Density Bonus Request letter from the applicant dated November 19, 2021, reducing the commercial square footage requirement would reduce the average cost per unit from \$730,994 to \$636,941, resulting in a total reduction of \$94,053 per unit. Without the requested concession, the project is not viable and cannot be constructed.

As a result of the decreased costs, the project would be viable and can be constructed. Cost savings will go toward the affordability of the units. Therefore, the incentive request to reduce the side setback results in actual and identifiable cost reductions and can be granted.

Incentive 3: High-Quality Materials.

The development standard pursuant to General Plan Signature Project Policy IP-5.10, requirement #5, requires high-quality architectural, landscape and site design features to be provided with the project. The applicant has requested that the development standard be modified to allow lower cost material alternatives, including smooth-finish stucco and cast foam core trim materials, where the City would normally not allow these materials on primary elevations in a Signature Project.

The use of stucco or other standard-quality materials on the ground floor of the buildings would normally not be permitted in a Signature Project development, and stucco on the upper levels would be required to be a smooth-textured stucco. The project was modified from the original submittal to include a mix of stone paneling with a smooth-textured stucco on the first two floors. The stone paneling is placed on the most visible building elevations. Floors 3 through 5 include stucco but with a fine texture stucco finish, instead of a smooth-texture finish. The fine texture stucco finish provides a material change distinguishing the ground and second floor levels from the upper levels. The fine texture stucco finish is less likely to show imperfections/cracking, and when viewed from the ground level will not appear significantly different from a smooth finish.

Coated foam core trim is a standard quality material, and not considered a higher-quality material consistent with Signature Project criteria, such as cast concrete. The project design includes foam core trim as a lower-cost material that is used to reduce material weight while also being durable. A lightweight limestone material called New Cast Stone will be used for all trim on the first and second floors which has a thicker exterior coating than the composite core trim on the upper floors, as shown in the Final Plan Set (Exhibit H). This will ensure the most durable material is used where it comes into contact with people.

As described in the Density Bonus Request letter from the applicant dated November 19, 2021, reducing the high-quality materials requirement would reduce the average cost per unit from \$683,370 to \$636,941, resulting in a total reduction of \$46,429 per unit. Without the requested concession, the project is not viable and cannot be constructed.

As a result of the decreased costs, the project would be viable and can be constructed while maintaining affordability of the units. Therefore, the incentive request to reduce the requirement for high-quality materials results in actual and identifiable cost reductions and can be granted.

PERMIT FINDINGS

Pursuant to Section 20.100.140 of the Zoning Code, whenever applications for the same site have been filed for one or more development permits or approvals required by this title, such development permit or approvals may be reviewed and acted on in a unified process. Per Section 20.100.220, the Director of Planning is the Initial Decision-Making Body for Special Use Permits. However, in the case where a project's Environmental Impact Report (EIR) identifies one or more significant environmental effects, the Planning Commission shall hold a hearing to make a recommendation to the City Council concerning certification of the final EIR; and the City Council shall thereafter hold a hearing to consider making the following certifications: that (1) the final EIR has been completed in compliance with CEQA; (2) the final EIR reflects the independent judgment and analysis of the city; and (3) the final EIR was presented to the City Council and the City Council reviewed and considered the information contained in the final EIR prior to approving the project pursuant to Section 21.07.020 of the San José Municipal Code.

Special Use Permit Findings

To make the Special Use Permit findings pursuant to San José Municipal Code Section 20.100.820 and recommend approval to the City Council, Planning Commission must determine that:

1. The special use permit, as approved, is consistent with and will further the policies of the general plan and applicable specific plans and area development policies; and

Analysis: As analyzed above, the mixed-use affordable housing project includes 13,590 square feet of ground floor commercial space, 239 market-rate residential housing units, and 89 affordable housing units. The project is consistent with the Signature Project General Plan Policy IP-5.10 and other General Plan Policies, and therefore the project is consistent with this finding.

2. The special use permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the project; and

Analysis: Mixed use projects are permitted with a Special Use Permit within the CP Commercial Pedestrian Zoning District in an Urban Village Plan Area. The project is required to have 193 vehicle parking spaces and 87 bicycle parking spaces for the commercial and residential uses. The project provides 398 vehicle parking spaces and 307 bicycle parking spaces to fulfill the parking requirements. The project also includes one required on-site loading space. Therefore, the project is consistent with the municipal code development standards.

3. The special use permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency; and

Analysis: The project is subject to and conforms to the Public Outreach Policy for Pending Land Use and Development Proposals. The on-site sign has been posted at the site since May 1, 2020 to inform the neighborhood of the project. A community meeting was held to discuss the project on October 13, 2020 via Zoom webinar. Approximately 27 members of the public were in attendance

for the meeting. Comments received during the community meeting and project review are discussed below. Public Notices of the community meeting and public hearing were distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public. As discussed above, the project is also consistent with City Council Policy 6-34 Riparian Corridor Protection and Bird-Safe Design as discussed in the Riparian Corridor Policy Section above.

4. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety, or general welfare; and

Analysis: The project would not negatively affect the utility or value of surrounding properties in the neighborhood, as the project would replace a vacant surface parking lot with a new mixed-use project near a transit station. The surrounding uses include single-family residential and commercial uses. The project includes multifamily residential and ground floor commercial uses, which are compatible with the surrounding uses. Outdoor activities are primarily oriented to the creek and public trail, to the VTA station entrance, and to the interior of the site to reduce any negative impacts such as noise and glare. The distance from the multifamily affordable building to the adjacent single-family homes is approximately 150 feet to the west. This distance includes a rear yard privacy wall on the single-family homes, the width of Canoas Creek, and the width of the building's common open space to the rear of the building, facing Canoas Creek. This open space includes trees and landscaping which also buffer the project from neighboring uses.

5. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate the use with existing and planned uses in the surrounding area; and

Analysis: As identified above, File No. T20-012 was submitted to the City for a Vesting Tentative Map to subdivide two lots into five lots. The Special Use Permit would authorize the development of a six-story mixed use building with 13,590 square feet of commercial space and 239 market-rate multifamily residential units and one five-story multifamily residential building with 89 affordable housing units, with improvements to the Canoas Creek trail on approximately 5.39-gross acres of the 7.42-gross acre site. The subject site is physically suitable for the project because all project components are designed within the project site, and the trail improvements provide an amenity to the residents and community members.

The site is bordered by State Route 85 (SR 85), a six-lane divided freeway, to the north and a freeway exit ramp to the east. The Blossom Hill VTA Station is also located to the north of the site, and the VTA light rail runs down the center of SR 85 with access to the Blossom Hill Station provided at the project site. Located south of the project site is Blossom Hill Road, a six-lane street divided by a median. Directly across Blossom Hill Road from the project site are medical office uses. To the west is the Canoas Creek riparian area, and on the other side of the creek are one- and two-story single-

family residences and a small commercial building with Lucy's Mexican Grill and VIP Barber Lounge facing Blossom Hill Road.

6. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improve necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
 - b. By other public or private service facilities as are required.

Analysis: The subject site is well-served by Blossom Hill Road, a six-lane road. The existing streets and utilities are of sufficient capacity to serve the project. All public utilities are adequate as evidenced by the issuance of the Final Public Works Memo dated April 15, 2022. The project is required to widen the public sidewalks to include street trees within the public right-of-way, install a bike lane, and improve the intersections along the project frontage including signal modifications, ADA ramps, and crosswalks.

As identified above, the project is located directly adjacent to the Blossom Hill VTA light rail station. Additionally, bus route 27 runs along Blossom Hill Road, providing local bus services to Winchester Station, Kaiser San José, and Downtown Los Gatos.

7. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: The project incorporates measures to address noise, stormwater runoff, drainage and erosion. The project would implement site design measures, such as creating new pervious areas, adding landscaping around walkways, sidewalks, and parking spaces, and source control measures such as use of efficient irrigation systems, covered trash and recycling containers, and providing an interior parking area. Outdoor activities are primarily oriented to the creek and public trail, to the VTA station entrance, and to the interior of the site to mitigate any negative impacts such as noise and glare. Construction noise and any resulting air quality issues will be short-term and temporary in nature. The project has requested extended construction hours to include Saturday from 8:00 a.m. to 5:00 p.m. to reduce noisier activities first thing in the morning. Extended construction hours shorten the overall construction period and construction-related standard conditions and mitigation measures still apply to limit noise and dust.

Site Development Permit Findings

To make the Site Development Permit findings pursuant to San José Municipal Code Section 20.100.630, the City Council must determine that:

1. The Site Development Permit, as approved, is consistent with and will further the policies of the General Plan and applicable specific plans and area development policies.

Analysis: The project is consistent with this finding, as analyzed for Special Use Permit finding number 1.

2. The Site Development Permit, as approved, conforms with the Zoning Code and all other provisions of the San José Municipal Code applicable to the project.

Analysis: The project is consistent with this finding, as analyzed for Special Use Permit finding number 2.

3. The Site Development Permit, as approved, is consistent with applicable City Council Policies, or counterbalancing considerations justify the inconsistency.

Analysis: The project is consistent with this finding, as analyzed for Special Use Permit finding number 3.

4. The interrelationship between the orientation, location, and elevation of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

Analysis: As described above, the subject project includes the construction of two buildings, a six-story mixed use building with 13,590 square feet of commercial space and 239 market-rate multi-family residential units and a five-story multifamily residential building with 89 affordable housing units. The project design includes Mediterranean-style architecture with limestone, cast stone, and smooth-finish stucco materials and variations on color, materials, projections, and recessions, which contribute to an interesting and varied design. The façades of the affordable multifamily building also include decorative mosaic tiles, and the roof materials of both buildings is Spanish tile. The orientation and location of the two buildings are well designed and compatible on the site, with both buildings sited close to the public right-of-way to achieve an urban aesthetic.

5. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

Analysis: As described above, the project fronts Blossom Hill Road, a General Plan-designated Main Street which serves as an east-west connector. The existing neighborhood is a mix of residential and commercial uses. The architecture and material of the buildings are Mediterranean style and variation in colors and materials provide an articulated design and helps break up the façade massing. The distance from the multifamily affordable building to the adjacent single-family homes is approximately 150 feet to the west. This distance includes a rear yard privacy wall on the single-family home site, the width of Canoas Creek, and the width of the building's common open space to the rear of the building, facing Canoas Creek. This open space includes trees and landscaping which also buffer the project from neighboring uses.

6. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: The project is consistent with this finding, as analyzed for Special Use Permit finding number 7.

7. Landscaping, irrigation systems, walls, and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

Analysis: The landscaping, irrigation systems, all walls and fences, utility, and trash facilities will improve the project site and enhance the appearance of the neighborhood. The mechanical equipment will be placed behind screening on the rooftop. Additionally, the transparent glazing at the pedestrian level will enhance the public street by providing activity and adding a vibrant feeling to the neighborhood.

8. Traffic access, pedestrian access and parking are adequate.

Analysis: The project area is regionally and locally accessible. The project site is accessible to vehicles, bicyclists, and pedestrians by a driveway off Blossom Hill Road. There is an additional entry for pedestrians and bicyclists at the intersection with the Caltrans offramp, also used as emergency access for fire vehicles. There are 193 vehicle parking spaces and 87 bicycle parking spaces required for the commercial and residential uses. The project includes 398 vehicle parking spaces and 307 bicycle parking spaces to fulfill the parking requirements under density bonus provisions. Therefore, the amount of parking spaces provided exceeds the requirement. The project is required to widen the public sidewalks to fifteen feet wide along Blossom Hill Road to include street trees within the public right-of-way, install a bike lane, and improve the intersections along the project frontage including signal modifications, ADA ramps, and crosswalks.

Tree Removal Findings

Chapter 13.32 of the San José Municipal Code establishes required findings that must be made for issuance of a Live Tree Removal Permit for ordinance-size trees. The ordinance-size tree removal meets the following required finding:

1. That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the lot in question.

Analysis: As identified above, the project includes the removal of 55 ordinance-size trees and 14 non-ordinance trees. To construct the project, the trees will need to be removed and replaced at the City-required ratio. The trees to be removed cannot be preserved, since they are distributed within the developable areas of the site in a manner and density that preclude a viable floor plan.

Tree Replacement Ratios				
Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon

Tree Replacement Ratios				
Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
x:x = tree replacement to tree loss ratio				
Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size.				
A 38-inch tree equals 12.1 inches in diameter.				
A 24-inch box tree = two 15-gallon trees				

Per the Arborist Report prepared by H.T. Harvey & Associates dated February 19, 2020, the 55 ordinance-size trees to be removed are all of non-native species, including Mexican fan palm, Chinese pistache, and Evergreen pear. These trees are required to be replaced at a ratio of 4:1, calculating to 220 replacement trees.

Of the remaining 14 non-ordinance trees, all are sized between 19 and 38 inches in circumference, and are of the non-native species Red Oak, Holly Oak, and Crape myrtle. These trees will be replaced at a ratio of 2:1, calculating to 28 replacement trees.

Per the table above, 248 replacement trees at 15-gallon size or 124 replacement trees at 24-inch box size are required to be replanted. Pursuant to the project landscaping plan, the development would plant a total of 87 replacement trees at 24-inch box size, 26 replacement trees at 36" box size, and 5 replacement trees at 60" box size, which is equivalent to 277 trees at 15-gallon size, which exceeds the City's Tree Replacement ratios. Therefore, the project is consistent with this requirement.

Vesting Tentative Map Findings

In accordance with San José Municipal Code (SJMC) Sections 19.12.130 and 19.12.220 and California Government Code Section 66474, the City Council of the City of San José, in consideration of the proposed subdivision shown on the Vesting Tentative Map with the imposed conditions, shall deny approval of a Vesting Tentative Map, if the City Council makes any of the following findings:

1. That the proposed map is not consistent with applicable General and Specific Plans as specified in Section 65451.
2. That the design or improvement of the proposed subdivision is not consistent with applicable General and Specific Plans.
3. That the site is not physically suitable for the type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Analysis: Based on review of the Vesting Tentative Map to subdivide two lots into five lots for the development of a mixed-use project including 13,590 square feet of commercial space and 328 residential units on an approximately 7.42-gross acre site, the Director of Planning of the City of San José does not make any such findings to deny the subject subdivision. The project is consistent with the General Plan goals, policies, and land use designation as discussed above. The project complies with the General Plan Signature Project Policy IP-5.10, as well as other goals and policies such as Major Strategy #3, Growth Area policies, and Public Transit policies. The General Plan land use designation of Downtown allows for higher-intensity projects. The project site is physically suitable for the project and proposed intensity because all project components are designed within the project site, and the trail improvements provide an amenity to the residents and community members. Furthermore, the project site does not contain historic resources or sensitive habitats or wildlife.

Additionally, the site is not located within a designated Federal Emergency Management Agency (FEMA) 100-year flood plain. The project site, as well as the surrounding area, are currently developed with a surface parking lot and do not provide a natural habitat for either fish or wildlife. The proposed subdivision and subsequent improvements are not likely to cause serious public health problems. The project will be required to provide a 15-foot wide sidewalk along Blossom Hill Road to include street trees within the public right-of-way, install a bike lane, and improve the intersections along the project frontage including signal modifications, ADA ramps, and crosswalks.

City Council Policy Consistency

City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals

Under City Council Policy 6-30, the project is considered to be a large development. Large development projects are required to provide Early Notification by website, email, postcard mailed to property owners and tenants within a 1,000-foot radius, and by on-site signage. Following City Council Policy 6-30, the required on-site sign has been posted at the site since May 1, 2020, to inform the neighborhood of the project. A community meeting was held to discuss the project on, October 13, 2020 via Zoom webinar. Approximately 27 members of the public were in attendance for the meeting. Comments received during the community meeting and project review are discussed below in the Public Outreach section. Public Notices of the community meeting and public hearing were distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

Council Policy 6-34: Riparian Corridor Protection and Bird-Safe Design

The purpose of the policy is for the protection, preservation and restoration of riparian habitat. The policy provides general guidelines for riparian corridor protection and requires a minimum 100-foot setback from a riparian corridor's top of bank or a vegetative edge, whichever is closest, to minimize

intrusion into the riparian corridor, and allows consideration of reduced setbacks under limited circumstances. A riparian project is a project that requires approval of a development permit, that is within 300 feet of a riparian corridor's top of bank or vegetative edge, whichever is greater.

The project is required to be evaluated for conformance with this policy as it is proposing several uses within the minimum 100-foot setback to the adjacent Canoas Creek. As outlined in the policy, trails may enter the Riparian Corridor where necessary for continuity. Passive recreational uses have a 0-foot setback. Active recreational uses, roads, and new residential/commercial buildings must provide a minimum 100-foot setback. The active recreational uses adjacent to the affordable building is shown on the plans at a 35-foot setback from the riparian corridor boundary.

This determination was made based on the analysis of Section A below, which allows a reduced setback for small lower-order tributaries whose riparian influences do not extend the 100-foot setback and other criteria. The project is consistent with the 35-foot setback requirement from the riparian area.

Section A of the policy provides design guidance for riparian projects. Section A.2 states that a reduced setback may be considered under limited circumstances such as:

1. Developments located within the boundaries of the Downtown area, as those boundaries are defined in the General Plan.
2. Urban infill I locations where most properties are developed and are located on lots that are equal to or less than one (1) acre.

Analysis for 'a' and 'b': These criteria are not applicable to the project because the subject site is not located within Downtown and is a total of 7.24 acres.

3. Sites adjacent to small lower order tributaries whose riparian influences do not extend to the 100-foot setback.

Analysis: Canoas Creek is a small lower order tributary. A technical memorandum was prepared for the project by Robin Carle of H.T. Harvey and Associates dated February 7, 2020. The memorandum documents the riparian corridor boundary as the top of the Canoas Creek channel at the adjacent Water District access road. The letter determined the 35-foot wide buffer is sufficient to protect the riparian corridor, since the quality of riparian habitat is low and does not support a diverse wildlife community. Canoas Creek is an engineered trapezoidal channel. The vegetation found within the channel were non-native grasses and forbs.

4. Sites with unique geometric characteristics and / or disproportionately long riparian frontages in relation to the width of the minimum Riparian Corridor setback.
5. Pre-existing one- or two-family residential lots, or typical yard area, but only where a frontage road is infeasible to buffer Riparian Corridors from these and the Building Setbacks are consistent with all Riparian Corridor setback requirements.

Analysis for 'd' and 'e': These criteria are not applicable to the project as the site is not irregularly shaped, and the existing use of the site is a parking lot.

6. Sites that are being redeveloped with uses that are similar to the existing uses or are more compatible with the Riparian Corridor than the existing use, and where the intensity of the new

development will have significantly less environmental impacts on the Riparian Corridor than the existing development.

Analysis: The project's mixed-use development would be more intensive than the existing parking lot use and have a greater impact on the riparian corridor than the parking lot use. However, the project would include the following site improvements: 1) The existing parking lot is within 5 feet of the riparian edge. The parking lot consists of impervious pavement that covers the entire 7.42-acre project site, with the exception of parking lot trees planted throughout the project site. The project would comply with City Council Policy 6-29: Post-Construction Urban Runoff Management to avoid soil erosion and minimize runoff. 2) The project would replace the non-native parking lot trees with native species which are more compatible with the riparian corridor than the existing use. 3) The existing parking lot includes 542 parking spaces that are accessible 24 hours per day and seven days per week. The project would direct all vehicular circulation to the podium parking garage. 4) As discussed below, although the construction and operation of the new building's active uses would be a distance of 35 feet from the riparian edge, per the EIR, the project would have a less than significant project-level environmental impact from the individual project-specific level. Furthermore, the project would be required to implement mitigation measures that would reduce impact from encroachment on riparian birds and habitat and would not result in a substantial adverse effect on any riparian habitat or other sensitive natural community.

7. Instances where implementation of the project includes measures that can protect and enhance the riparian value more than the minimum setback.

Analysis: As discussed above, the existing site is a paved parking lot with 542 parking spaces interspersed with non-native parking lot trees. The project would replace the parking lot trees with native trees within 100 feet of the riparian corridor, including an approximately 50-foot wide landscape strip with native vegetation adapted to the Santa Clara Valley watershed along the western edge of the site within the 35-foot riparian setback area, which helps enhance the riparian value.

8. Recreational facilities deemed to be a critical need and for which alternative site locations are limited.

Analysis: Most of the area of the site that is encroaching into the 100-foot riparian setback are active recreational uses for the residents of the affordable housing building (Building B), such as a garden and a playground. These activities are a critical need for low-income families, and the nearest public park offering these amenities is over 1.25 miles away at Cahalan Park.

9. Utility or equipment installations or replacements that involve no significant disturbance to the Riparian Corridor during construction and operation and generate only incidental human activity.

Analysis: This criterion is not applicable to the project, since there are no utility installations within the riparian corridor setback area.

10. The existence of legal uses within the minimum setback.

Analysis: The existing 7.42-acre site is a legally paved parking lot used as an off-site parking establishment for the Valley Transportation Authority. Approximately 1.78 acres of the site is within the 100-foot riparian setback area, and approximately 0.85 acres will remain a parking lot for the Blossom Hill Transit Station.

11. The extent to which meeting the required setback would result in demonstrable hardship (i.e. denies an owner any economically viable use of the land or adversely affects recognized real property interest).
12. The extent to which meeting the minimum setback would require deviations from, exception to or variances from other established policies, legal requirements, or standards.

Analysis for 'k' and 'l': As stated above, most of the area within the 100-foot riparian setback would be used as common open space for the residents of the affordable housing building (Building B). The building itself is set back between 80 and 120 feet from the property line and between 55 and 95 feet from the riparian corridor. Because of the alignment with the intersection of Indian Avenue, the affordable housing building would need to be reduced in size to allow the full 100-feet of setback. However, as described above, the quality of riparian habitat is low and does not support a diverse wildlife community. Canoas Creek is an engineered trapezoidal channel. The vegetation found within the channel were non-native grasses and forbs. The CP Commercial Pedestrian Zoning District has a minimum side setback of zero feet. No deviations from, exception to or variances from other established policies, legal requirements, or standards would be required.

To qualify for the reduced setback, the applicant may illustrate the existence of one or more of the conditions under Section A.3 of the Riparian Policy by a qualified biologist. A technical memorandum was prepared for the project by Robin Carle of H.T. Harvey and Associates dated February 7, 2020. The memorandum documents the riparian corridor boundary as the top of the Canoas Creek channel at the adjacent Water District access road. The letter determined the 35-foot wide buffer is sufficient to protect the riparian corridor, since the quality of riparian habitat is low and does not support a diverse wildlife community. Canoas Creek is an engineered trapezoidal channel. The vegetation found within the channel were non-native grasses and forbs. Based on the information provided by qualified biologist, the project qualifies for a setback reduction due to the following circumstances under Section A.3:

1. There is no reasonable alternative for the proposed Riparian Project that avoids or reduces the encroachment into the Setback Area.

Analysis: Most of the area within the 100-foot riparian setback would be used as common open space for the residents of the affordable housing building. The building itself is set back between 80 and 120 feet from the property line and between 55 and 95 feet from the riparian corridor. Because of the alignment with the intersection of Indian Avenue, the affordable housing building would need to be reduced in size to allow the full 100-feet of setback. Increasing the setback to active recreational uses would eliminate the garden, playground, and other active recreational uses included with the project for use by the residents of the affordable housing building. These activities are a critical need for low-income families, and the nearest public park offering these amenities is over 1.25 miles away at Cahalan Park.

2. The reduced setback will not significantly reduce or adversely impact the Riparian Corridor.

Analysis: Based on the technical memorandum prepared for the project referenced above, the quality of riparian habitat is low and does not support a diverse wildlife community. Canoas Creek is an engineered trapezoidal channel. The vegetation found within the channel were non-native grasses and forbs. The 35-foot setback is sufficient to protect the existing riparian corridor.

3. The proposed uses are not fundamentally incompatible with riparian habitats.

Analysis: Section 1B of the City's Riparian Corridor Policy Study defines land uses that are incompatible with riparian systems to include uses which typically generate littering and/or dumping, off-road vehicle use, removal of native vegetation, uses that create noxious odors or use, store, or create toxic materials, and uses that generate high volumes of vehicular traffic. Portions of the affordable housing building and the active recreational common open spaces area for use by the residents would be within the 100-foot riparian setback area, in addition to the Canoas Creek trail. There are no off-road vehicle uses proposed within this area. The project would not result in any of the uses defined to be fundamentally incompatible with riparian habitats and the project's land use does not typically result in any of the described incompatible land use categories. Permit conditions for the project require the site and its publicly-used areas to be maintained free of litter, refuse, and debris. Therefore, the project is not fundamentally incompatible with the riparian habitat.

4. There is no evidence of stream bank erosion or previous attempts to stabilize the stream banks that could be negatively affected by the proposed development within the Setback Area.

Analysis: Canoas Creek is an engineered trapezoidal channel. The project will not result in stream bank erosion.

5. The granting of the exception will not be detrimental or injurious to adjacent and/or downstream properties.

Analysis: Development of the project will not have negative effects on properties located adjacent or downstream. The project is required to comply with City Council Policy 6-29: Post-Construction Urban Runoff Management to avoid soil erosion and minimize runoff. Stormwater will be treated locally then discharged to the existing storm drain systems. Therefore, the project would not be detrimental or injurious to adjacent and/or downstream properties.

Additionally, in a report dated January 28, 2022, H.T. Harvey & Associates prepared a Bird Collision Hazard Assessment to assess how birds might use resources on and around the project site, and the potential for avian collisions with the façades of the buildings, taking into account the applicant-proposed bird-safe design measures, the location of the proposed buildings relative to food or structural resources (such as vegetation along Canoas Creek) and presumed flight paths, the distance from the towers to those resources, the potential for vegetation to be reflected in the glass façades, and the existing conditions of the façades of other buildings in the vicinity.

The report concluded that the number of bird collisions on the site is expected to be low due to the low numbers of birds expected to occur on the site over the long term and the bird-safe design features included in the project design. Most bird strikes would be by resident species, including common, urban-adapted species that are widespread in urban, suburban, and (for many species) natural land use types throughout the San Francisco Bay area, as opposed to migrant birds. Since the project is consistent with the Riparian Setback requirements and the Bird Safety requirements, the project is consistent with this finding.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

A Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2020100005, was prepared for the Blossom Hill Station Project (SP20-012 and T20-012) in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines. The DEIR was circulated for public review and comment from March 10, 2022 through April 25, 2022.

An EIR was prepared because the analysis showed that the project would have a significant and unavoidable transportation impact.

Specifically, the project generated vehicle miles traveled (VMT) would exceed the City's threshold of 10.12 VMT per capita for residential uses in the area by 2.5 VMT per capita. The analysis showed that even with implementation of Mitigation Measure TRA-1.1 which would reduce the impact by 20 percent, the impact would remain above the threshold, and therefore, would be significant and unavoidable.

Mitigation measures were also developed to lessen the following impacts to less than significant levels: exposure of sensitive receptors to toxic air contaminants during construction, disturbance and/or destruction of nesting migratory birds during construction, potential impacts to unrecorded subsurface archaeological resources, exposure of construction workers to residual contamination from agricultural chemicals in the soil, and exposure of sensitive receptors to construction noise.

Standard Permit Conditions are also required to ensure that impacts do not occur during construction and operation of the project. These Standard Permit Conditions include best management practices for construction related air quality impacts, protection of nesting migratory birds, compliance with the Santa Clara Valley Habitat Plan, protection of unknown subsurface cultural resources and human remains, compliance with the California Building Code for seismic safety of the proposed building, erosion control during construction activities, water quality impacts during construction, best management practices to control noise during construction, and achieving an interior noise level of less than 45 decibels (dBA DNL) after construction.

DEIR Recirculation Unnecessary

As previously stated, the Draft EIR was circulated for public review for 45 days consistent with CEQA Guidelines Section 15132, starting on March 10, 2022 and ending on April 25, 2022.

A First Amendment to the DEIR was prepared that provided responses to public comments submitted during the public circulation period and revisions to the text of the DEIR.

A total of eight comment letters were received.

Staff responded to the comments and questions in the First Amendment and none of the comments raised new significant information that would warrant recirculation of the Draft EIR pursuant to CEQA Guidelines Section 15088.5(a). The recirculation of an EIR is required when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for public review but before certification. "Information" can include changes in the project or environmental setting as well as additional data or other information. New information added to a Draft EIR is not "significant" unless the Draft EIR is changed in a way that deprives the public of meaningful opportunity to comment on a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (CEQA Guidelines Section 15088.5).

Final EIR

The First Amendment was posted on the City's website on June 22, 2022 and all commenters were notified via email of the document's availability. The Draft Environmental Impact Report (DEIR) and First Amendment are available for public review on the City's website:

<https://www.sanJoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs>.

The First Amendment together with the DEIR constitute the Final Environmental Impact Report (FEIR) for the proposed project.

Statement of Overriding Considerations

A Statement of Overriding Considerations will need to be adopted by City Council for this project for the identified significant and unavoidable impact. The draft CEQA resolution includes a Statement of Overriding Considerations and sets forth how the benefits of the project outweigh its significant adverse environmental impact.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy to inform the public of the proposed project. An on-site sign was posted on the property and a noticed community meeting was held on Thursday, October 13, 2020. Approximately 27 members of the public were in attendance. Concerns raised during the meeting included:

1. There are two freeway ramps within a mile of each other along Blossom Hill Road, which creates a lot of traffic congestion in front of this project. Adding an additional 300 units would exacerbate the existing traffic situation.
2. The height is a concern since it does not fit in with anything in the area, which are mostly one-story buildings.
3. Transients currently living under the overpass are a concern. The proposed Creek Trail may attract more transients and more crime. Security cameras and lights are needed to keep people safe and to prevent criminal and drug activities in that area.
4. There is a concern that the overflow parking will spill out into the adjacent residential neighborhood along Chesbro Avenue.
5. There is a concern that the affordable housing operator will mis-manage the affordable building and result in additional transients in the underpass.

There were also comments made in support of the project at the Community Meeting, including from Alex Shoor of Catalyze SV, who expressed support for the percentage of affordable housing and stated the vibrancy of the site which will be a major asset to the community at large, and that the project will activate the VTA station, the Creek Trail, and the bike paths. Additionally, Bill Rankin from Save Our Trails, an advocacy group for Santa Clara County trails, expressed support for the proposed trail connection to Martial Cottle Park.

Staff also received emails from community members and a petition with 52 signatures of community members in opposition to the project. In addition to the concerns raised in the Community Meeting as outlined above, the concerns raised during the review process include the following:

6. This project is too dense for the area, which is otherwise suburban.
7. The traffic will cause clogged roadways, which become a safety issue when ambulance response is slowed. This is a neighborhood where many retirees live.
8. The trees being removed is an environmental issue.
9. Canoas Creek flows into the Guadalupe Watershed and will be vulnerable to any pollutants during construction. Any harmful substances from the construction phase run the risk of flowing downstream and impacting many square miles of San José.
10. Canoas Creek is home to the endangered California toad. It is also home to the Largemouth Bass, Common Carp, and Channel Catfish. There is a concern that the project will impact these species.
11. The planned bike path is too narrow and should be at least seven feet in width.
12. There is a concern about the trail lighting, especially along the underpass, but also along the entire length of the trail. There should be access points for residents to access the trail at end of Avenida Arboles and another at the end of Colony Knoll Drive.
13. There is an elementary school and a middle school on Blossom Avenue within 1,000 yards of the project. The project will bring in more people without fixing the homeless and drug problem; therefore, the safety of children is at stake.
14. The two buildings should be set back from the street with a wide landscape strip to make the project beautiful and eye-catching.

There was also one email received in support of the project from Ryan Warner, a resident of Indian Avenue, who said that the existing VTA parking lot is underused, and he supports the addition of housing, and he looks forward to the new retail.

Staff Responses

In response to the concerns about traffic, a Local Transportation Analysis was prepared and reviewed by Public Works and CEQA staff. The report concluded that the project-generated vehicle miles traveled (VMT) would exceed the City's threshold of 10.12 VMT per capita for residential uses in the area by 2.5 VMT per capita. The analysis showed that even with implementation of Mitigation Measure TRA-1.1 which would reduce the impact by 20 percent, the impact would remain above the threshold. Therefore, the impact would be significant and unavoidable. A statement of overriding considerations is included with the Environmental Impact Report for this project.

In response to the concern about density, projects within any Urban Village Plan area have a target density of 55 dwelling units per acre (DU/AC) per the General Plan. This project is within the Blossom Hill Road/Cahalan Avenue Urban Village Plan area and includes a density of 90.8 DU/AC for the affordable housing building and 80.7 DU/AC for the mixed-use building. The project is consistent with the General Plan policy for projects within an Urban Village.

In response to the concerns about the project height, the maximum height of new construction is 120 feet within Urban Village Plan boundaries per Section 20.85.020.E of the Zoning Code. Since this project is within the boundaries of the Blossom Hill Road/Cahalan Avenue Urban Village Plan, the maximum height of 79.5 feet is consistent with the height requirement. The height is necessary to achieve the General Plan goals regarding intensive development adjacent to transit stations.

In response to the concerns about the trail, the project proponents are aware of the homeless concern and are working with the Council District Office to mitigate the encampment. The project includes lighting along the trail and especially along the underpass. The trail will also be widened from the existing eight feet to ten to twelve feet. The requested access points at the end of Avenida Arboles and at the end of Colony Knoll Drive are beyond the scope of this project, on the other side of SR 85.

In response to the concern about overflow parking, the project is exceeding the parking requirements. The project is required to have 193 vehicle parking spaces and 87 bicycle parking spaces for the commercial and residential uses. The project provides 398 vehicle parking spaces and 307 bicycle parking spaces to fulfill the parking requirements. The project is also providing one required on-site loading space. Therefore, the project is consistent with the municipal code development standards.

In response to the management of the affordable housing building, EAH Housing has twenty affordable housing developments in Santa Clara County that they successfully manage. The representative from EAH stated that it has been shown that affordable housing adds value to neighboring properties in various communities. The affordable housing will be provided in tiers per the state law. Specifically, the affordability levels of the project are 30% of the area median income (AMI) to 60% AMI. These apartments will be permanently affordable, and there will always be at least one manager on site.

In response to the concern about the tree removals, the project implementation includes planting of a total of 118 replacement trees, which exceeds the tree replacement requirement per the analysis provided above in the Tree Removal Findings section.

In response to the concern about pollutants entering Canoas Creek during construction of the project, there are several environmental conditions of approval included in the Special Use Permit Resolution that address this issue, including mitigation measures and standard permit conditions to mitigate impacts to air quality, biological resources, cultural resources, hazards and hazardous materials, geology and soils, and noise during construction activities. There were no sensitive biological resources identified within Canoas Creek during the environmental review of the project.

The bike path is proposed at five feet wide and is consistent with the Department of Transportation's Complete Streets requirements per Chapter 13.05 of the San José Municipal Code. The public right-of-way fronting the project is planned for a required 15-foot wide sidewalk and a bus stop. Coordination with Caltrans and VTA was also required to achieve these amenities in the right-of-way for the project. Widening the bike lane would not be feasible at this location.

In response to the concern about the front setback, the project is consistent with the setback requirements of the CP Commercial Pedestrian Zoning District, as discussed above in the Zoning Consistency section. The required setback is ten feet maximum. The setback provided ranges from five feet to 9.2 feet and is consistent with the requirement.

A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

Project Managers: Laura Meiners

Approved by: /s/ Robert Manford, Deputy Director for Christopher Burton, Planning Director

ATTACHMENTS:	
Exhibit A:	Vicinity Map, Aerial
Exhibit B:	General Plan Land Use Designation
Exhibit C:	Zoning District
Exhibit D:	Special Use Permit SP20-012 Resolution
Exhibit E:	Vesting Tentative Map T20-012 Resolution
Exhibit F:	Environmental Impact Report Resolution and Mitigation Monitoring and Reporting Program (MMRP)
Exhibit G:	Special Use Permit SP20-012 Final Plan Set
Exhibit H:	Vesting Tentative Map T20-012 Final Plan Set
Exhibit I:	Density Bonus Request Letter dated November 19, 2021
Exhibit J:	Public Correspondence

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Exhibit A: Vicinity Map/Aerial



Exhibit B: General Plan Land Use Designation

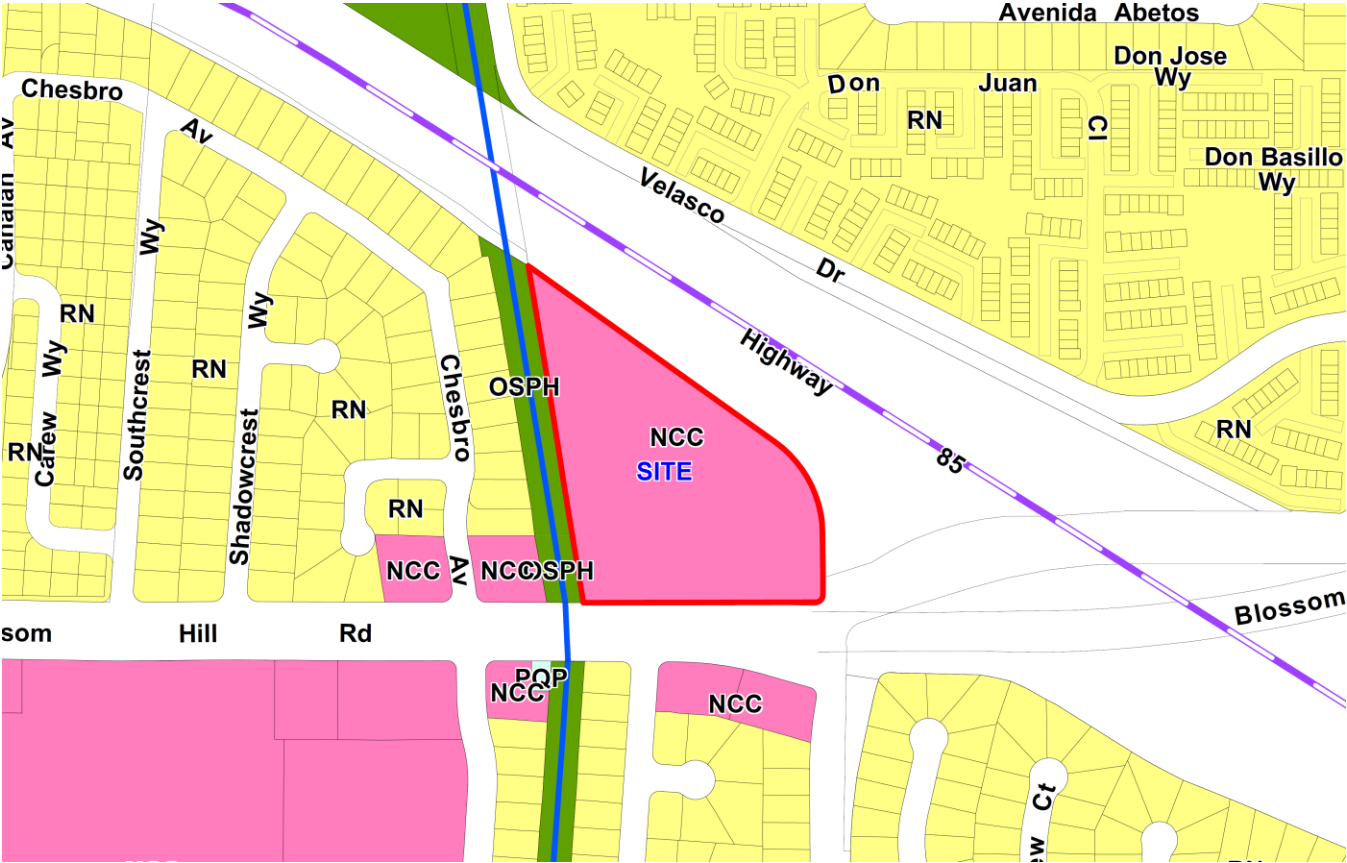
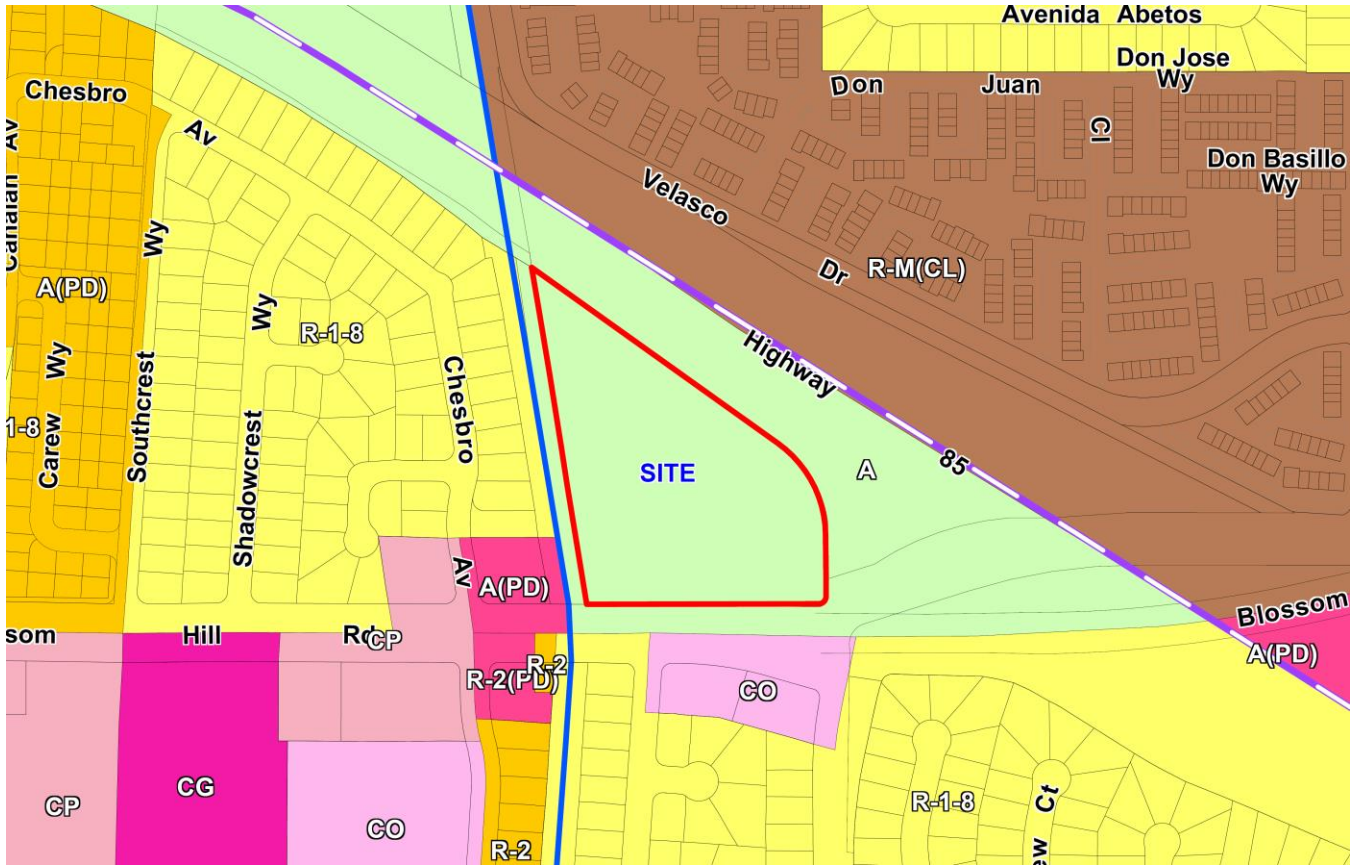


Exhibit C: Zoning District



SP20-012 & T20-012

Links to Attachments D-J

Click on the title to view document

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